

SETTING ASIDE DEFAULT JUDGMENT

CAO Instruction 17

The following general information may or may not apply to your specific case. If you have a question about any of the information, please be sure to talk to your local Court Assistance Office.

- 1) Complete the Motion To Set Aside Default, CAO 4-5 (or Motion To Set Aside Default and Issue Stay of Writ, CAO 4-5A, if a Writ of Execution has already been issued in your case) including the case number. Attach a copy of any document that supports your claimed defense. Make sure you explain in some detail what your defense to the action is and why you failed to appear and defend the action initially.
- 2) Make two copies of the Motion, then:
 - a) File the Original with the Court Clerk.
 - b) Mail or deliver one copy of the Motion to the opposing party or their attorney if they are represented by an attorney.
 - c) Keep a copy for your records.
- 3) Complete the Order Setting Aside Default, CAO 4-7. Make two copies of the Order, then
 - a) Provide the Court Clerk with the original Order and two (2) Copies
 - (1) The original will go in the Court file
 - (2) One copy will be mailed to you by the Court Clerk (if the order is issued)
 - (3) One copy will be mailed to the opposing party/attorney
 - b) Provide the Court Clerk with a self addressed stamped envelope, and a stamped envelope with the opposing party/attorney's address.
- 4) Take the original and your copy of the Motion and the original and both copies of the Order to the Court Clerk's Office.
 - a) The Clerk will date stamp the Motion and copy and return your copy to you.
 - b) The Clerk will hold the order and copies for the judge's signature.
- 5) If you haven't received your copy within a week, contact the Court Clerk to check on the status.
- 6) If you are required to set a hearing (which you will have to do in Ada County), complete the Notice of Hearing, CAO 4-6. Make two copies and file the original when you file the Motion. You will be given a hearing date at that time. Mail or deliver one copy of the Notice to the opposing party or their attorney if an attorney represents them. Go to the hearing on the scheduled date. Take your original copies of the Order to the hearing with you.

PLEASE NOTE THAT SETTING ASIDE THE DEFAULT DOES NOT ADDRESS THE UNDERLYING CASE, YOU WILL STILL HAVE TO APPEAR TO PRESENT YOUR SIDE OF THE CASE.